

USSN 10/078,402  
NAKADE et al.

**REMARKS**

Claims 9 and 10 are presently pending in the captioned application subsequent to the enclosed amendment. Claims 9 and 10 are currently amended and claims 1-8 and 11-17 canceled without disclaimer or prejudice as to the subject matter contained therein. The application is currently under appeal subsequent to a notice of appeal and a request for a pre-appeal brief conference in accordance with the new Patent Office pilot program.

A telephonic Interview was conducted on October 11, 2005, with the Supervisor for the captioned application. The Interview was made subsequent to a decision on a pre-appeal brief conference mailed on August 31, 2005, maintaining the rejection of the previously pending claims 1-3, 5-7, 9-11, 14 and 16-17. The decision indicated that the application remained under appeal because at least one appealable issue was present in the case.

However, the Supervisor indicated during the Interview that the method claims 9 and 10 would be allowable subject to an amendment wherein claim 9 is amended to contain the process step of "recovering a porous powder" and claim 10 is amended to depend from claim 9. The Supervisor also indicated that such an amendment would be entered at this stage of prosecution if the amendment is

USSN 10/078,402  
NAKADE et al.

submitted by facsimile.

Support for the amendment of "recovering a porous powder" can be found in the preamble of the claim 9. Claim 10 is amended to depend from claim 9.

No new matter within the meaning of § 132 has been added by any of the amendments.

With regard to the outstanding rejection of claim 1 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,055,378 ("Miyamura et al.") in combination with JP 2001-181482, Applicants traverse the rejection and expressly state that the cancellation of the rejected claims is unrelated to a question of patentability. Applicants may file a continuation application directed to the rejected matter.

Accordingly, Applicants respectfully request entry of the amendment and withdrawal of the outstanding rejections and an allowance of the claims.

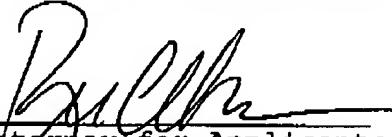
USSN 10/078,402  
NAKADE et al.

**CONCLUSION**

In light of the foregoing, Applicants submit that the application is now in condition for allowance. The Examiner is therefore respectfully requested to reconsider and withdraw the rejection of the pending claims and allow the pending claims. Favorable action with an early allowance of the claims pending is earnestly solicited.

Respectfully submitted,

**SHERMAN AND ASSOCIATES**

  
\_\_\_\_\_  
Attorney for Applicants  
Roger C. Hahn  
Reg. No. 46,376

**SHERMAN AND ASSOCIATES**  
415 N. Alfred Street  
Alexandria, Virginia 22314  
703-549-2282